



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION – ORDER BY CONSENT ISSUED TO BASSETT FURNITURE INDUSTRIES, INCORPORATED

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1455(C) and (F), between the Virginia Waste Management Board and Bassett Furniture Industries, Incorporated, for the purpose of resolving certain violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “APA” means the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*
2. “Bassett” means Bassett Furniture Industries, Incorporated, a Virginia corporation operating under Virginia corporate identification number 0036120-4.
3. “Board” means the Virginia Waste Management Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 10.1-1401.
4. “BRRO” means the Blue Ridge Regional Office of DEQ, located at 3019 Peters Creek Road in Roanoke, Virginia.
5. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
6. “Director” means the Director of the Department of Environmental Quality.

7. "DOT" means the United States Department of Transportation.
8. "Generator" means a hazardous waste generator, as defined by 40 CFR § 260.10.
9. "LQG" means large quantity generator, a hazardous waste generator that generates 1,000 kilograms (2,200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).
10. "Order" means this document, also known as a Consent Order.
11. "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means Virginia Administrative Code.
14. "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR (e.g., 40 CFR § 262.34 means that section as incorporated by 9 VAC 20-60-262). Citations to independent Virginia requirements are made directly to the VHWMR (e.g., 9 VAC 20-60-315 D).

Section C: Findings of Fact and Conclusions of Law

1. Bassett owns and operates Bassett Furniture Plant 11, a furniture manufacturing facility in Bassett, Virginia. Wastes generated at this facility include spent solvents from spray gun cleanup and nitrocellulose filters from spray booths. Bassett notified as a LQG of hazardous waste. DEQ staff inspected Bassett on May 6, 2008 for compliance with the VHWMR.
2. On September 4, 2008, DEQ issued a Notice of Violation ("NOV") to Bassett citing the following violations observed during the May 2008 inspection:
 - Failure to contact the transporter or disposal facility if the terminated manifest is not received within 35 days of shipment, in violation of 40 CFR 262.42(a)(1) (incorporated by 9 VAC 20-60-262). The NOV alleged eleven violations for shipments between July and December 2007.
 - Failure to file an exception report if the terminated manifest is not received within 45 days of shipment in violation of 40 CFR 262.42(a)(2) (incorporated by 9 VAC 20-60-262). The NOV alleged eleven such violations for shipments between July and December 2007.

- Failure to make a hazardous waste determination for spray booth filters, in violation of 40 CFR 262.11 (incorporated by 9 VAC 20-60-262).
 - Failure to label a hazardous waste container in a satellite accumulation area, in violation of 40 CFR 262.34(c)(1)(ii) (incorporated by 9 VAC 20-60-262).
 - Failure to mark the accumulation start date on a hazardous waste container in a 90-day accumulation area in violation of 40 CFR 262.34(a)(2) (incorporated by 9 VAC 20-60-262).
 - Failure to have a training program for facility personnel assigned to hazardous waste management responsibilities, in violation of 40 CFR 265.16(a)(1) (incorporated by 9 VAC 20-60-265).
 - Failure to perform annual refresher training for facility personnel assigned to hazardous waste management responsibilities, in violation of 40 CFR 265.16(c) (incorporated by 9 VAC 20-60-265).
3. DEQ staff met with Bassett representatives on October 1, 2008 and May 21, 2009 to discuss the results of the May 2008 inspection and the September 2008 NOV. Based on these discussions and additional information submitted by Bassett, including letters and documents submitted by Bassett on June 24, 2009 and July 29, 2009, DEQ has withdrawn allegations of the violations listed in the first three bullets of paragraph C(2) above.
 4. Results of the May 2008 inspection indicated that Bassett did not label: a) 5-gallon hazardous waste containers in the satellite accumulation area at the spray booth with the words "Hazardous Waste" and the contents of the containers; and b) the 55-gallon drum in the <90-day accumulation area with an accumulation start date. The failure of Bassett to provide these labels violated, respectively, 40 CFR 262.34(c)(1)(ii) (incorporated by 9 VAC 20-60-262) and 40 CFR 262.34(a)(2) (incorporated by 9 VAC 20-60-262).
 5. Results of the May 2008 inspection indicated that Bassett did not: a) have a training program for personnel with hazardous waste management responsibilities; b) offer annual hazardous waste management refresher training in 2007; and c) did not have the required documentation of training needs for employees who handle hazardous waste. These deficiencies violated, respectively, 40 CFR 265.16(a)(1) (incorporated by 9 VAC 20-60-265), 40 CFR 265.16(c) (incorporated by 9 VAC 20-60-265), and CFR 265.16(d) (incorporated by 9 VAC 20-60-265).

Section D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455(C) and (F), the Board orders Bassett, and Bassett voluntarily agrees, to pay a civil charge of \$5,500.00 within

thirty (30) days of the effective date of this Order in settlement of the violations cited in this Order.

Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, VA 23218

Bassett shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Bassett, for good cause shown by Bassett, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Bassett by DEQ on September 4, 2008. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Bassett admits the jurisdictional allegations, factual finding, and conclusions of law contained herein.
4. Bassett consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Bassett declares that it has received fair and due process under the APA and the Waste Management Act, Va. Code § 10.1-1400 *et seq.* and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Bassett to comply with any of the terms of this Order shall constitute a

violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Bassett shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Bassett shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bassett shall notify the BRRO Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth: (a) the reasons for the delay or noncompliance; (b) the projected duration of any such delay or noncompliance; (c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and (d) the timetable by which such measures will be implemented and the date full compliance will be achieved. Failure to so notify the BRRO Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Bassett intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Bassett. Nevertheless, Bassett agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Bassett. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bassett from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Bassett voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2009.

Steven A. Dietrich, Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

Bassett Furniture Industries, Incorporated voluntarily agrees to the issuance of this Order.

Date: _____ By: _____
[name, title]

Commonwealth/State of _____

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2009 by _____, who is _____ of Bassett Furniture Industries, Incorporated, on behalf of the Corporation.

Notary Public

My Commission expires: _____